

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

February 29, 2000

**FROM:** GERRY NEWCOMBE, Contract Administrator  
Economic Development & Public Services Group, **Waste System Division**

**SUBJECT: ISSUANCE OF FIVE YEAR WIND DOWN NOTICE FOR EXISTING REFUSE  
HAULERS IN THE WEST VALLEY AREA**

**RECOMMENDATION:** Direct the Waste System Division (WSD) to provide, to all companies holding a Temporary Class A permit for solid waste handling services in Refuse Collection Area Nos. 1 and 2 (west valley), a written notice to those companies stating that (1) the County intends to provide such services in the future through an exclusive franchise agreement and, (2) that a five-year wind down period for this purpose as set forth in Public Resources Code Section 49520 will be initiated.

**BACKGROUND INFORMATION:** In October 1996, the Board of Supervisors approved a Waste Hauler Franchise Ordinance authorizing the County to enter into exclusive franchise agreements with waste haulers providing service in the unincorporated areas of the County. These franchise agreements require, among other things, provision of recycling programs to assist the County in meeting its 50% diversion requirement and delivery of unincorporated waste to County landfills. Since October 1996, the Board has approved 14 franchise agreements with various haulers throughout the County with the exception of one key area: the west valley.

Due to a lawsuit between the two largest hauling companies in the west valley, WSD has been unable to successfully negotiate any agreement regarding boundaries for exclusive territories. In the absence of a signed franchise agreement, up to 60,000 tons/year of unincorporated waste are being hauled to landfills in Riverside and Orange Counties, denying the County its solid waste revenues if the tonnage were deposited at existing County landfill sites instead. Additionally, the County has no ability to require commercial and residential recycling programs that are critical to meeting state mandated diversion requirements.

While the County cannot force the existing haulers to immediately sign a franchise agreement, state law does give the County the ability to execute a five-year notice of its intent to enter into an exclusive franchise agreement for the area currently served by a particular hauler. For five years following receipt of such notice the existing haulers have a limited right to continue to provide solid waste handling services. This limited right terminates at the end of the five-year wind down period, and the County would then have the ability to enter into an exclusive franchise agreement that is not subject to any rights existing haulers may possess.

cc: WSD - Newcombe  
ED/PSG  
File

Record of Action of the Board of Supervisors

**CONT. TO TUESDAY, 2/29/00 @ 10 A.M.**

**BOARD OF SUPERVISORS  
COUNTY OF SAN BERNARDINO**

MOTION	<u>SECOND</u>	<u>AYE</u>	<u>AYE</u>	<u>AYE</u>	<u>MOVE</u>
	1	2	3	4	5

**EARLENE SPROAT, CLERK OF THE BOARD**

**BY** \_\_\_\_\_

**DATED: January 25, 2000**

After the notice is given, the County and the existing haulers can still choose to enter into a negotiated franchise agreement prior to the end of the notice period. Additionally, the County is currently free, and will remain free following the giving of notice to the existing haulers, to employ a competitive process of its choosing and award an exclusive franchise to the company making the best proposal, whether such company is currently providing service in that area or not. However, any agreement awarded prior to the end of the five-year wind down period would be subject to whatever rights the existing haulers possess.

REVIEW BY OTHERS: This item has been reviewed by Deputy County Counsel Robert L. Jocks on August 2, 1999.

FINANCIAL IMPACT: This action will have no impact on the General Fund. The County receives a franchise fee from all haulers under a franchise agreement. Concluding franchise negotiations in the west valley will bring additional franchise revenue into the Solid Waste Enterprise Fund. Until the franchise boundaries are negotiated, it is not possible to predict with certainty how much revenue will be generated. If franchise agreements were to stop the export of 60,000 tons/year of unincorporated waste, Enterprise Fund annual gross revenues would increase by approximately \$1.98 million.

SUPERVISORIAL DISTRICT(S): Second, Fourth, Fifth

PRESENTER: Gerry Newcombe